

MINUTES
IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF ALABAMA NORTHERN, DIVISION

HON. CHARLES S. COODY, MAG. JUDGE AT MONTGOMERY, ALABAMA

DATE COMMENCED: 5/30/06 AT 9:02 a.m. to 10:11 a.m.

DATE COMPLETED: 5/30/06 AT FTR RECORDING

ROBERT ANDREW WERMUTH

Plaintiff

vs..

SHANNON CARROL YOUNGBLLOD, et al

Defendant

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CIVIL CASE NO. 2:05CV644-CSC

PLAINTIFF

APPEARANCES:

DEFENDANT

Mr. Robert Andrew Wermuth, Pro Se

Atty. Michael D. Boyle

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COURT OFFICIALS PRESENT:

COURTROOM DEPUTY: WANDA STINSON

LAW CLERK: WYNN D. ALLEN

() OTHER PROCEEDINGS:

NON-JURY TRIAL

(X) TRIAL

SEE MINUTES ATTACHED

LOG OF PROCEEDINGS ELECTRONICALLY RECORDED			
Description	Non-Jury Trial - 05cv664-CSC		
Date	5/30/2006	Location	Courtroom 4B
Time	Speaker	Note	
9:02:37 AM	Court	Court convenes; parties present as noted;	
9:02:54 AM	Court	City request the rule be invoked; witnesses who will be called to testify are excused from the courtroom; Plaintiff advised that he has to burden of proof to demonstrate by a preponderance of the evidence that he entitled to the relief he's seeking; Discussionss as to the remaining issues of the Fourth amendment of excessive force claim against Officers, Johnson, Hill and Byrne and a State law assault and battery claim;	
9:04:34 AM	Mr. Wermuth	Addresses the court , would like to speak with witness.	
9:05:34 AM	Court	Will give 10 minutes to allow plaintiff to speak with witness;	
9:05:57 AM	Court	Court is recessed until 9:15 a.m. ;	
9:13:57 AM	Court	Ms. Humphrey to wait outside;	
9:14:01 AM	Mr. Wermuth	Calls Officer Sgt. Everett L. Johnson, MPD; witness is sworn and seated;	
9:14:01 AM	Court		
9:17:01 AM	Atty. Boyle	Cross - examination;	
9:20:38 AM	Mr. Wermuth, Pro Se	Re-direct;	
9:21:30 AM	Court	Witness is excused;	
9:21:37 AM	Mr. Wermuth, Pro Se	Calls Lt. Roderick Francis Byrne, MPD, witness is sworn and seated;	
9:22:53 AM	Court	Question as to what happened at scene;	
9:23:04 AM	Mr. Byrne	Response;	
9:25:13 AM	Atty. Boyle	Cross - examination; Discussions as to any misconduct of other officers on the scene;	
9:26:00 AM	Court	Witness is excused;	
9:26:10 AM	Mr. Wermuth, Pro Se	Calls Martha Humphrey; witness is sworn and seated;	
9:30:10 AM	Atty. Boyle	Cross - examination; Discussion and review of Deft Exh. #1 and #2;	
9:36:24 AM	Court	Witness is excused;	
9:36:48 AM	Mr. Wermuth	Have no other witness;	
9:36:48 AM	Court	You do not wish to testify;	
9:36:48 AM	Mr. Wermuth	No sir.;	
9:36:50 AM	Atty. Boyle	Oral Motion for Judgment as a matter of law;	
9:37:17 AM	Court	Discussion as to lack of evidence of the policy;	
9:37:25 AM	Atty. Boyle	Response;	
9:37:37 AM	Court	Discussion as to the individual claims against each of the officers involved, there is no need for a policy to establish their liability;	
9:37:46 AM	Atty. Boyle	Response;	
9:38:45 AM	Court	Discussion regarding argument confuses state and federal law claims; ORAL ORDER denying motion ;	

9 :39:02 AM	Atty Boyle	Calls Officer Detective David Hill; witness is sworn and seated;
9 :42:10 AM	Court	Questions as to how the accident happen;
9 :42:10 AM	Officer Hill	Response;
9 :42:22 AM	Atty. Boyle	Cont'd testimony;
9 :44:52 AM	Mr. Wermuth, Pro Se	Cross- examination;
9 :46:27 AM	Court	Witness is excused;
9 :46:39 AM	Atty. Boyle	Calls Lt. William Caulfield, witness is sworn and seated;
9 :50:26 AM	Mr. Wermuth, Pro Se	Cross - examination;
9 :52:42 AM	Court	Witness is excused;
9 :52:49 AM	Atty. Boyle	Calls Officer James C. Welch, 3rd Shift Supervisor;
9 :59:42 AM	Mr. Wermuth	Cross - examination;
10:02:14 AM	Mr. Boyle	Ask that the court review affidavit of Officer Welch;
10:02:31 AM	Court	Witness is excused;
10:02:34 AM	Mr. Boyle	Recalls Sgt. Johnson; Discussions as to canine engaged;
10:04:38 AM	Court	Question to witness as to where was Mr. Wermith when the dog was released;
10:04:52 AM	Witness	Response;
10:04:55 AM	Mr. Wermuth	Cross - examination;
10:05:57 AM	Court	Witness is excused;
10:06:19 AM	Mr. Wermuth	Testimony of Plaintiff, Robert Wermuth, Plaintiff given oath and takes the stand;
10:08:02 AM	Atty. Boyle	Cross - examination;
10:10:08 AM	Court	Plaintiff excused from stand;
10:10:22 AM	Court	Will take matters under advisement;
10:10:27 AM	Atty. Boyle	Renew motion for judgment as a matter of law;
10:11:00 AM	Court	Court is recessed.